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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

DAVID K. FAGIN, ROGER NEWELL, and )  
RICHARD A. STARK, each an individual, on behalf )  
of themselves and derivatively on behalf of Nominal )  
Defendant WESTERN TITLE EXPLORATION )  
AND DEVELOPMENT LIMITED, )

Plaintiffs, )

vs. )

DOBY GEORGE, LCC a Nevada limited liability )  
company, WOOD GULCH, LLC, A Nevada limited )  
liability company, THEODORE J. DAY, )  
HOWARD M. DAY, CARMEN F. FIMIANI, and )  
BERNARD F. CARTER, each an individual; )

Defendants, and )

WESTERN EXPLORATION AND DEVELOPMENT )  
LIMITED, a Canadian Corporation, )

Nominal Defendant )

Case No. 3:08-CV-0314

**COUNTERDEFENDANTS’  
UNOPPOSED MOTION FOR  
LEAVE TO LATE FILE MOTION  
FOR SUMMARY JUDGMENT**

**ORDER GRANTING**

Plaintiffs-Counterdefendants, David K. Fagin, Richard A. Stark and Roger Newell (“Counterdefendants”), by and through their undersigned counsel, file this Unopposed Motion for Leave to Late File Motion For Summary Judgment (“Motion”). In support thereof, Counterdefendants state as follows:

1. Counterdefendants undersigned counsel in good faith has conferred with counsel for Counterclaimants, and Counterclaimants’ counsel has no objection to the requested leave to late file this Motion.

2. On November 23, 2010, the Court issued an Order providing that Plaintiffs shall have 21 days to file any motions on Defendants’ counterclaims.

3. Pursuant to the November 23, 2010 Court Order, Counterdefendants’ Motion for Summary Judgment was required to be filed on December 17, 2010.

4. Counterdefendants inadvertently missed this filing deadline due to the departure of the attorney at Fognani & Faught, PLLC assigned to the case who was thought to have filed the Motion for Summary Judgment.

5. Counterclaimants will not be prejudiced by this late Motion because this Motion is being filed only two business days past the Court ordered deadline.

6. The requested leave to late file this Motion is in the interests of justice and is not sought for purposes of undue delay.

WHEREFORE, for all of the foregoing reasons, Counterdefendants respectfully request the Court to grant them leave to late file this Motion.

RESPECTFULLY SUBMITTED this 21st day of December 2010.

\_\_\_\_\_/s/\_\_\_\_\_  
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*Attorneys for Plaintiffs-Counterdefendants*

IT IS SO ORDERED.  
This 4th day of January, 2011.

A handwritten signature in black ink that reads "Edward C. Reed." The signature is written in a cursive style with a large, stylized "E" and "R".

UNITED STATES DISTRICT JUDGE